

CADES SCHUTTE

A Limited Liability Law Partnership

CALVERT G. CHIPCHASE 7757

LISA K. SWARTZFAGER 10867

MALLORY T. MARTIN 10211

1000 Bishop Street, Suite 1200

Honolulu, Hawai'i 96813-4212

Telephone: (808) 521-9200

Email: cchipchase@cades.com

lswartzfager@cades.com

Attorneys for Plaintiffs

HELICOPTER ASSOCIATION  
INTERNATIONAL and SAFARI  
AVIATION, INC. d/b/a SAFARI  
HELICOPTERS HAWAII

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

HELICOPTER ASSOCIATION  
INTERNATIONAL, SAFARI  
AVIATION, INC. d/b/a SAFARI  
HELICOPTERS HAWAII

Plaintiffs,

v.

STATE OF HAWAII;  
DEPARTMENT OF  
TRANSPORTATION, STATE OF  
HAWAII; and EDWIN SNIFFEN,  
in his official capacity as Director  
of the Hawai'i Department of  
Transportation,

Civil No. 1:23-cv-00083

**JOINT REPORT OF THE  
PARTIES' PLANNING  
MEETING AND DISCOVERY  
PLAN PURSUANT TO FED. R.  
CIV. P. 26(f)**

**CERTIFICATE OF SERVICE**

Defendants.

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**JOINT REPORT OF THE PARTIES' PLANNING MEETING  
AND DISCOVERY PLAN PURSUANT TO FED. R. CIV. P. 26(f)**

Plaintiff Helicopter Association International, Safari Aviation, Inc. D/B/A Safari Helicopters Hawai'i ("**Plaintiffs**") and Defendant Edwin Sniffen, in his official capacity as Director of the Hawai'i Department of Transportation ("**Defendant**") submit this Joint Report and Discovery Plan in accordance with Federal Rule of Civil Procedure ("**FRCP**") 26(f) and Rules of the United States District Court for the District of Hawai'i Rule ("**LR**") 26.1(b).

Counsel for Plaintiffs, Calvert G. Chipchase IV, and counsel for Defendant, Stuart Fujioka, conferred, via telephone, regarding the matters required by FRCP 26(f) and LR 26.1 on October 17, 2023. Counsel for Plaintiffs and Defendant thereafter drafted this status report and discovery plan. Defendant's counsel agrees to the contents of this joint report.

**I. BRIEF STATEMENT OF THE CLASS**

This case involves a challenge to the monthly reporting requirement imposed by the amendments to Hawai'i Revised Statutes ("**HRS**") § 261-12(b), as set forth in Senate Bill 3272 and adopted as Session Act 311

(“**Act 311**”). Plaintiffs asserts claims for that the reporting requirement in Act 311 is preempted under field preemption (Count I), the Federal Aviation Act (Count II), the Airline Deregulation Act (Count III), and the Aircraft Noise and Capacity Act (Count IV). Plaintiffs seek (1) a declaratory judgment that federal law preempts the monthly reporting requirement and (2) a permanent injunction barring enforcement of the reporting requirement.

## **II. PROPOSED DISCOVERY PLAN**

### **A. Initial Disclosures**

Pursuant to FRCP 26(a)(1), the parties agreed to exchange their respective initial disclosures fourteen days after the scheduling conference, which is currently set for November 13, 2023.

### **B. Discovery Subjects and Timing**

The parties discussed discovery. The parties intend to conduct customary discovery on the claims and defenses, and they will attempt to resolve any discovery disputes among themselves before bringing them to the Court. The parties have agreed that any inadvertent production of trial or privileged material can be clawed back by the producing party.

### **C. Electronic Discovery**

At the present time, the parties do not foresee any unusual issues

concerning the disclosure, discovery, or preservation of electronically stored information.

**D. Limitations on Discovery**

At the present time, the parties do not anticipate any unusual issues about claims of privilege, protection as trial-preparation materials, or any other applicable privilege or protection. The parties do not anticipate requesting any specific procedure(s) to assert claims of privilege or of protection as trial preparation materials after production beyond those procedures in the FRCP and LR.

**E. Changes to Limitations on Discovery**

The parties do not anticipate any changes that will need to be made relating to the limitations on discovery imposed under the FRCP or LR or other limitations that may be imposed.

**F. Other Orders**

All dispositive motions should be filed by the date established by the Court in its scheduling order.

**III. OTHER MATTERS.**

The parties have discussed alternative dispute resolution options, including, without limitation, the option of participation in the court's mediation program. The parties are open to conducting mediation at the

appropriate time. The parties are prepared to consider this matter further and discuss options at the scheduling conference.

DATED: Honolulu, Hawai'i, October 31, 2023.

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/s/ Mallory T. Martin

CALVERT G. CHIPCHASE  
LISA K. SWARTZFAGER  
MALLORY T. MARTIN  
Attorneys for Plaintiffs  
HELICOPTER ASSOCIATION  
INTERNATIONAL and SAFARI  
AVIATION, INC. d/b/a SAFARI  
HELICOPTERS HAWAII